Supreme Court, U.S.
FILED
FEB 2 1996
CLERK

No. 95-1042

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1995

BARBARA KRAEBEL Doing Business As
BARKLEE REALTY COMPANY,

Petitioner,

-against-

THE NEW YORK CITY DEPARTMENT OF FINANCE,

Respondent.

On Petition For A Writ Of Certiorari
To The New York State Supreme Court,
Appellate Division, First Department

REPLY BRIEF

Barbara Kraebel D/B/A
Barklee Realty Company
Petitioner *pro se*
60 East 42nd Street - #1146
New York, New York 10165
Telephone: (212) 831-1012

February 2, 1996

5 pp

TABLE OF CONTENTS

PAGE

POINT I. INDIVIDUALS WITH A SINGLE CLAIM ARE ENTITLED TO ENFORCE THEIR FEDERAL CONSTITUTIONAL RIGHTS 1

POINT II. THE FULL FAITH AND CREDIT CLAUSE DOES NOT PREVENT THIS COURT FROM REVIEWING A STATE COURT DETERMINATION THAT *RES JUDICATA* BARS A FEDERAL CLAIM 3

CONCLUSION 3

No. 95-1042

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1995

BARBARA KRAEBEL Doing Business As
BARKLEE REALTY COMPANY,

Petitioner,

-against-

THE NEW YORK CITY DEPARTMENT OF FINANCE,

Respondent.

On Petition For A Writ Of Certiorari
To The New York State Supreme Court,
Appellate Division, First Department

REPLY BRIEF

POINT I. INDIVIDUALS WITH A SINGLE CLAIM ARE ENTITLED TO ENFORCE THEIR FEDERAL CONSTITUTIONAL RIGHTS.

Respondent argues that New York property owners can only bring declaratory judgment or CPLR Article 78 proceedings to enforce legal and constitutional rights with

respect to real property assessments if the proceedings involve more than one property (Resp. Br. pp. 7-8).

But the Fifth and Fourteenth Amendments, 42 U.S.C. §1983, and this Court's rulings do not require multiple claims or multiple claimants in order to bring constitutional challenges to government action.

Respondent errs in relying on *Long Island Lighting Co. v. Town of Brookhaven*, 889 F.2d 428 (2nd Cir. 1989), to justify denying a property owner with only one property the right to seek declaratory or injunctive relief with respect to real property assessments. The Circuit Court denied federal jurisdiction in that case in part because of Article 7 proceedings which had been ongoing for 10 years, finding that LILCO was able to prosecute such complex and prolonged cases. *Id.* at 433. Many owners of a single property do not have the capacity for such litigation, much less small owners like Petitioner. Moreover, the Court's denial of federal jurisdiction rested in relevant part upon a determination that declaratory and Article 78 proceedings to raise constitutional objections to the assessment process were available to LILCO in New York courts. *Id.* at 431-433.

POINT II. THE FULL FAITH AND CREDIT CLAUSE DOES NOT PREVENT THIS COURT FROM REVIEWING A STATE COURT DETERMINATION THAT *RES JUDICATA* BARS A FEDERAL CLAIM.

Respondent would bar this Court from reviewing the decision below as to the *res judicata* effect of the 1987 Proceeding because of federal cases which have applied the Full Faith and Credit Clause to bar federal proceedings after non-appealable state court determinations on the same factual circumstances. Such cases do not prevent this Court from reviewing a state court determination that *res judicata* bars federal claims when the claims are based on new factual circumstances and when the *res judicata* determination is manifestly unjust, contrary to the *res judicata* standards of state law, and inconsistent with the rulings of this Court.

CONCLUSION

For the foregoing reasons and for the reasons set forth in the Petition For A Writ Of Certiorari, Petitioner respectfully requests that a writ of certiorari be issued to review the decision and order of the New York State Supreme Court Appellate Division, First Department.

Respectfully submitted,

Barbara Kraebel D/B/A
Barklee Realty Company
Petitioner *pro se*
60 East 42nd Street - #1146
New York, New York 10165
Telephone: (212) 831-1012

February 2, 1996